

## **REMARKS**

The December 16, 2003 Office action has been carefully considered. No claims have been amended. No new matter has been introduced. Withdrawal of the finality of the December 16, 2003 Office action and reconsideration and allowance of the present application in view of the following remarks are respectfully requested.

### **REQUEST TO WITHDRAW FINALITY OF OFFICE ACTION**

Applicants respectfully request that the finality of the December 16, 2003 Office action be withdrawn on the ground that the amendment filed by Applicants on September 25, 2003 ("the September 25, 2003 Amendment") did not necessitate new grounds for rejection. Applicants respectfully submit that the conditions set forth in MPEP § 706.07(a) for making a second or subsequent actions on the merits final have not been met. The December 16, 2003 Office action should not have been made final because the cited patent document, German Patent DE 29706022 ("DE '022"), could have been cited by the Examiner prior to the September 25, 2003 Amendment. The September 25, 2003 Amendment did not alter the scope of the claims such that the Examiner's understanding of the cited patent document could not have been applied prior to the amendment, and thus the amendment did not necessitate new grounds for rejection. As a result, the rejection based upon DE '022 is not a new ground of rejection necessitated by the September 25, 2003 Amendment.

Accordingly, it is respectfully requested that the Examiner withdraw the finality of the December 16, 2003 Office action as premature pursuant to MPEP § 706.07(d) which states: "[i]f, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection."

### **TRAVERSAL OF CLAIM REJECTIONS**

Claims 1-5, 7-9, 11-16, 18-22, 24-27, 29-31, 33-35, 37, and 41 have been rejected under 35 U.S.C. § 102(b) as being anticipated by DE '022. This rejection is respectfully traversed.

Applicants respectfully disagree with the Examiner's finding that DE '022 discloses all of the recited elements of the present invention. A certified copy of the English translation of DE '022 is attached herewith to aid the Examiner's understanding of DE '022. Contrary to the Examiner's assertions on page 2, paragraph 2 c) of the December 16, 2003

Office action, DE '022 does not teach nor suggest a connector assembly movably coupling the handle to the shaving head to permit the shaving head to exhibit a first movement toward and away from the handle, as recited in independent claims 1, 14, 25, 33, and 41. Thus, independent claims 1, 14, 25, 33, and 41 and all claims depending therefrom cannot be anticipated by DE '022 under 35 U.S.C. § 102. To anticipate a claim, the reference must teach every element of the claim: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); "The identical invention must be shown in as complete detail as is contained in the ... claim," *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ 1913, 1920 (Fed. Cir. 1989).

It is noted that the Examiner relied on the drawings of DE '022, particularly Figs. 4-5. It is respectfully submitted that when a reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on the measurement of the drawing features are of little value. *See Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 222 F.3d 951, 956, 55 USPQ 2d 1487, 1491 (Fed. Cir. 2000). "([I]t is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue."). Thus, any arrangement and spacing of elements only illustrated in the drawings, but not described in the specification, cannot be relied upon as teaching the above-noted claimed features of the present invention.

For the above reasons, withdrawal of the rejection under 35 U.S.C. § 102(b), and reconsideration and allowance of the pending claims are respectfully requested.

Claim 6 has been rejected under 35 U.S.C. § 103 as being obvious over DE '022. This rejection is respectfully traversed.

As discussed above, independent claim 1 is allowable over DE '022. Therefore, claim 6, which ultimately depends from independent claim 1, is also allowable. Withdrawal of this rejection and allowance of claim 6 accordingly are respectfully requested.

In view of the above remarks, it is respectfully submitted that all rejections of the claims have been overcome and that all pending claims are in condition for allowance. An

issuance of a Notice Of Allowance is accordingly respectfully requested. Should the Examiner disagree, then a personal or telephonic interview with the undersigned is respectfully requested to discuss any remaining issues and to expedite the allowance of this application.

No fee is believed to be due for this response. Should any fee be required, please charge such fee to Jones Day Deposit Account No. 16-1150.

Respectfully submitted,

Date: February 9, 2004

  
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Enclosure